NO. FBT CV 15 6048103 S	**:**	**SUPERIOR COURT**
DONNA L. SOTO, ADMINISTRATRIX OF THE ESTATE OF VICTORIA L. SOTO, ET AL	**:**	**J.D. OF FAIRFIELD**
V.	**:**	**AT BRIDGEPORT**
BUSHMASTER FIREARMS INTERNATIONAL, LLC, a/k/a, ET AL	**:**	**JULY 22, 2016**

OBJECTIONS AND RESPONSES TO DEFENDANT REMINGTON'S FIRST REQUESTS FOR ADMISSIONS DATED MAY 26, 2016 BY PLAINTIFF DAVID C. WHEELER, ADMINISTRATOR OF THE ESTATE OF BENJAMIN A. WHEELER

Pursuant to Practice Book Section 13-23, plaintiff David Wheeler, Administrator of the Estate of Benjamin A. Wheeler, hereby objects and responds to Defendant Remington's First Requests for Admissions dated May 26, 2016, as follows:

1. One of the firearms used by Adam Lanza on December 14, 2012 was a Bushmaster Model XM-15 semi-automatic rifle, bearing serial number L534858.

ANSWER:

Admitted.

2. The document attached as Exhibit A is a genuine copy of Invoice number 840927 dated February 12, 2010 issued by Bushmaster Firearms to Camfour LLC.

OBJECTIONS:

a) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to verify the genuineness of a document that the party did not prepare or execute. *See Zoll v. Zoll*, 112 Conn. App. 290, 300 (2009) (affirming trial court's sustaining of an objection to a Request for Admission on grounds that it was "inappropriate to require the plaintiff to admit or deny the genuineness of documents prepared by a third party unrelated to the plaintiff"); *Marks v. Beard*, 1994 WL 282262, at *3 (Conn. Super. June 15, 1994) (McGrath, J.) (sustaining an objection to an RFA asking plaintiff to admit the genuineness of medical reports prepared by one of her treating physicians, finding that "the plaintiff is not competent to testify as to the genuineness of a document which the plaintiff did not execute"); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) (holding that a "party need not, in answering the request [for admission], rely on information provided by others if the party itself lacks firsthand knowledge of the information, had no control or

input into the preparation of the document, and lacks sworn testimony or other reliable means for crediting the information provided by others"). Plaintiffs were not party to the drafting or execution of "Invoice number 840927." Therefore, the Request for Admission is improper.

b) To the extent that this Request calls for plaintiffs to admit that "Bushmaster Firearms" actually issued "Invoice number 840927," plaintiffs object because that information can only be ascertained by inquiring of Remington and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts have long held that a party is not required to answer a request for admission that requires him or her to inquire of individuals with an adverse interest in the litigation. *See Al-Jundi v. Rockefeller*, 91 F.R.D. 590, 594 (W.D.N.Y. 1981) (court will "entertain good faith objections to specific admission requests that to obtain the requisite knowledge would require inquiry of persons having an interest in this litigation significantly adverse to the objector's own"); *Dulansky v. Iowa-Illinois Gas & Elec. Co.*, 92 F. Supp. 118, 123 (S.D. Iowa 1950) (holding that it would be improper "to require a respondent to ascertain from third persons, known to him and to the court to be hostile or interested in the outcome of the suit, facts upon which to predicate a[n admission]"); *Kendrick v. Sullivan*, 1992 WL 119125, at *4 (D.D.C. May 15, 1992) (same). The rationale for this rule is that admissions are tantamount to sworn testimony. Accordingly, to require a party to adopt the statements of a hostile witness would effectively deprive him of the right of cross-examination at trial. *Al-Jundi*, 91 F.R.D. at 593-94; *Dulansky*, 92 F. Supp. at 123; *Kendrick*, 1992 WL 119125, at *4.

c) In addition, plaintiffs object to this Request because it is unclear what is meant by "Bushmaster Firearms," and plaintiffs cannot determine which Bushmaster entity conveyed the invoice without inquiry of a Remington witness. Indeed, in a representation that appears to conflict with the admission requested here,

Remington has stated that "Bushmaster Firearms International, LLC" "manufactured and shipped" the XM-15 rifle used in the December 14, 2012 mass shooting at Sandy Hook Elementary School. DN 162, Remington's Objections and Responses to Plaintiffs' First Requests for Production at Objection No. 1, p.2. Other Remington filings suggest that "Bushmaster Firearms" and "Bushmaster Firearms International, LLC" are separate entities (or perhaps separate entities depending on the time period). *See* DN 101, Remington's Notice of Removal, at pp.1-2 fn. 1 (stating that Bushmaster Firearms "does not exist," and that Bushmaster Firearms International, LLC also does not presently exist but is now "an unincorporated brand of Remington Arms Company, LLC"); DN 103, Application for Referral of Case to Complex Litigation Docket (CLD) at p.1, 2 (indicating that plaintiffs' suit was brought "against eleven defendants"; listing "Bushmaster Firearms," "Bushmaster Firearms International, LLC" and "Bushmaster Firearms, Inc." as separate defendants). Plaintiffs thus object to this Request because it cannot be admitted or denied without making inquiry of adverse witnesses – both as to who created the Invoice, and as to what corporate entity is meant by "Bushmaster Firearms" at the time the Invoice was created.

3. A Model XM-15 semi-automatic rifle bearing serial number L534858 was among the items sold by Bushmaster Firearms to Camfour LLC on Invoice number 840927.

OBJECTIONS:

a) To the extent this Request asks the plaintiffs to take a position as to the genuineness of the Invoice attached as Ex. A, it is improper. Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to verify the genuineness of a document that the party did not prepare or execute. *See Zoll v. Zoll*, 112 Conn. App. 290, 300 (2009) (affirming trial court's sustaining of an objection to a Request for Admission on grounds that it was "inappropriate to require the plaintiff to admit or deny the genuineness of documents prepared by a third party unrelated to the plaintiff"); *Marks v. Beard*, 1994 WL 282262, at *3 (Conn. Super. June 15, 1994) (McGrath, J.) (sustaining an objection to an RFA asking plaintiff to admit the genuineness of medical reports prepared by one of her treating physicians, finding that "the plaintiff is not competent to testify as to the genuineness of a document which the plaintiff did not execute"); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) (holding that a "party need not, in answering the request [for admission], rely on information provided by others if the party itself lacks firsthand knowledge of the information, had no control or input into the preparation of the document, and lacks sworn testimony or other reliable means for crediting the information provided by others"). Plaintiffs were not party to the drafting or execution of "Invoice number 840927." Therefore, the Request for Admission is improper.

b) Plaintiffs object to this Request to the extent that it calls for information that can only be ascertained by inquiring of Remington and Camfour and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts have long held that a party is not required to answer a request for admission that requires him or her to inquire of individuals with an adverse interest in the litigation. *See Al-Jundi v. Rockefeller*, 91 F.R.D. 590, 594 (W.D.N.Y. 1981) (court will "entertain good faith objections to specific admission requests that to obtain the requisite knowledge would require inquiry of persons having an interest in this litigation significantly adverse to the objector's own"); *Dulansky v. Iowa-Illinois Gas & Elec. Co.*, 92 F. Supp. 118, 123 (S.D. Iowa 1950) (holding that it would be improper "to require a respondent to ascertain from third persons, known to him and to the court to be hostile or interested in the outcome of the suit, facts upon which to predicate a[n admission]"); *Kendrick v. Sullivan*, 1992 WL 119125, at *4 (D.D.C. May 15, 1992) (same). The rationale for this rule is that admissions are tantamount to sworn testimony. Accordingly, to require a party to adopt the statements of a hostile witness would effectively deprive him of the right of cross-examination at trial. *Al-Jundi*, 91 F.R.D. at 593-94; *Dulansky*, 92 F. Supp. at 123; *Kendrick*, 1992 WL 119125, at *4.

c) In addition, plaintiffs object to this Request because it is unclear what is meant by "Bushmaster Firearms," and plaintiffs cannot determine which Bushmaster entity conveyed the invoice without inquiry of a Remington witness. Indeed, in a representation that appears to conflict with the admission requested here, Remington has stated that "Bushmaster Firearms International, LLC" "manufactured and shipped" the XM-15 rifle used in the December 14, 2012 mass shooting at Sandy Hook Elementary School. DN 162, Remington's Objections and Responses to Plaintiffs' First Requests for Production at Objection No. 1, p.2. Other Remington filings suggest that "Bushmaster Firearms" and "Bushmaster Firearms International, LLC" are separate entities

(or perhaps separate entities depending on the time period). *See* DN 101, Remington's Notice of Removal, at pp.1-2 fn. 1 (stating that Bushmaster Firearms "does not exist," and that Bushmaster Firearms International, LLC also does not presently exist but is now "an unincorporated brand of Remington Arms Company, LLC"); DN 103, Application for Referral of Case to Complex Litigation Docket (CLD) at p.1, 2 (indicating that plaintiffs' suit was brought "against eleven defendants"; listing "Bushmaster Firearms," "Bushmaster Firearms International, LLC" and "Bushmaster Firearms, Inc." as separate defendants). Plaintiffs thus object to this Request because it cannot be admitted or denied without making inquiry of adverse witnesses – both as to who created the Invoice, and as to what corporate entity is meant by "Bushmaster Firearms" at the time the Invoice was created.

4. Invoice number 840927 reflects that the Federal Firearms License number under which Bushmaster Firearms sold the Model XM-15 semi-automatic rifle bearing serial number L534858 to Camfour LLC was 6-01-005-10-2D-00956.

OBJECTIONS:

a) To the extent this Request asks the plaintiffs to take a position as to the genuineness of the Invoice attached as Ex. A, it is improper. Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to verify the genuineness of a document that the party did not prepare or execute. *See Zoll v. Zoll*, 112 Conn. App. 290, 300 (2009) (affirming trial court's sustaining of an objection to a Request for Admission on grounds that it was "inappropriate to require the plaintiff to admit or deny the genuineness of documents prepared by a third party unrelated to the plaintiff"); *Marks v. Beard*, 1994 WL 282262, at *3 (Conn. Super. June 15, 1994) (McGrath, J.) (sustaining an objection to an RFA asking plaintiff to admit the genuineness of medical reports prepared by one of her treating physicians, finding that "the plaintiff is not competent to testify as to the genuineness of a document which the plaintiff did not execute"); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) (holding that a "party need not, in answering the request [for admission], rely on information provided by others if the party itself lacks firsthand knowledge of the information, had no control or input into the preparation of the document, and lacks sworn testimony or other reliable means for crediting the information provided by others"). Plaintiffs were not party to the drafting or execution of "Invoice number 840927." Therefore, the Request for Admission is improper.

b) Plaintiffs object to this Request to the extent that it calls for information that can only be ascertained by inquiring of Remington and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts have long held that a party is not required to answer a request for admission that requires him or her to inquire of individuals with an adverse interest in the litigation. *See Al-Jundi v. Rockefeller*, 91 F.R.D. 590, 594 (W.D.N.Y. 1981) (court will "entertain good faith objections to specific admission requests that to obtain the requisite knowledge would require inquiry of persons having an interest in this litigation significantly adverse to the objector's own"); *Dulansky v. Iowa-Illinois Gas & Elec. Co.*, 92 F. Supp. 118, 123 (S.D. Iowa 1950) (holding that it would be improper "to require a respondent to ascertain from third persons, known to him and to the court to be hostile or interested in the outcome of the suit, facts upon which to predicate a[n admission]"); *Kendrick v. Sullivan*, 1992 WL 119125, at *4 (D.D.C. May 15, 1992) (same). The rationale for this rule is that admissions are tantamount to sworn testimony. Accordingly, to require a party to adopt the statements of a hostile witness would effectively deprive him of the right of cross-examination at trial. *Al-Jundi*, 91 F.R.D. at 593-94; *Dulansky*, 92 F. Supp. at 123; *Kendrick*, 1992 WL 119125, at *4.

c) In addition, plaintiffs object to this Request because it is unclear what is meant by "Bushmaster Firearms," and plaintiffs cannot determine which Bushmaster entity conveyed the invoice without inquiry of a Remington witness. Indeed, in a representation that appears to conflict with the admission requested here, Remington has stated that "Bushmaster Firearms International, LLC" "manufactured and shipped" the XM-15 rifle used in the December 14, 2012 mass shooting at Sandy Hook Elementary School. DN 162, Remington's Objections and Responses to Plaintiffs' First Requests for Production at Objection No. 1, p.2. Other Remington filings suggest that "Bushmaster Firearms" and "Bushmaster Firearms International, LLC" are separate entities (or perhaps separate entities depending on the time period). *See* DN 101, Remington's Notice of Removal, at pp.1-2 fn. 1 (stating that Bushmaster Firearms "does not exist," and that Bushmaster Firearms International, LLC also does not presently exist but is now "an unincorporated brand of Remington Arms Company, LLC"); DN 103, Application for Referral of Case to Complex Litigation Docket (CLD) at p.1, 2 (indicating that plaintiffs' suit was brought

"against eleven defendants"; listing "Bushmaster Firearms," "Bushmaster Firearms International, LLC" and "Bushmaster Firearms, Inc." as separate defendants). Plaintiffs thus object to this Request because it cannot be admitted or denied without making inquiry of adverse witnesses – both as to who created the Invoice, and as to what corporate entity is meant by "Bushmaster Firearms" at the time the Invoice was created.

5. Federal Firearms License number 6-01-005-10-2D-00956 is a Type 10 Manufacturer of Destructive Devices license.

ANSWER:

Admitted.

6. A Type 10 Federal Firearm License is not a license to engage in the business of importing firearms under chapter 44 of title 18 of the United States Code.

OBJECTION:

a) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to admit a legal conclusion. Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts agree that Rule 36 does not permit a party to request the admission of a legal conclusion. *See Matysiak v. Spectrum Servs. Co.*, 2014 WL 3819206, at *4 (D. Conn. Aug. 4, 2014) ("a party may not seek an admission as to a pure conclusion of law"); *Disability Rights Council v. Wash. Metro. Area*, 234 F.R.D. 1, 3 (D.D.C. 2006) ("[a] party cannot demand that the other party admit the truth of a legal conclusion"; sustaining objection because defendant was "asking plaintiffs to state their understanding of federal law"); *Coach, Inc. v. Horizon Trading USA Inc.*, 908 F. Supp. 2d 426, 432 (S.D.N.Y. 2012) (declining to deem several unanswered Requests for Admission admitted, because they "ask defendants to admit legal conclusions"); *Lakehead Pipe Line Co. v. Am. Home Assur. Co.*, 177 F.R.D. 454, 458 (D. Minn. 1997) ("[A] request for admission

which involves a pure matter of law, that is, requests for admissions of law which are related to the facts of the case, are considered to be inappropriate."). *See also Reichenbach v. City of Columbus*, 2006 WL 143552, at *1 (S.D. Ohio 2006) (sustaining an objection to a request for admission asking defendants to admit that the curb ramp at issue was not compliant with the federal accessibility design standards on the ground that it sought a purely legal conclusion); *English v. Cromwell*, 117 F.R.D. 132, 135 (C.D. Ill. 1986) (sustaining an objection to a request that sought admission from the defendants that they were subject to particular statutes).

7. A Type 10 Federal Firearm License is not a license to engage in the business as a dealer of firearms under chapter 44 of title 18 of the United States Code.

OBJECTION:

a) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to admit a legal conclusion. Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

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that the curb ramp at issue was not compliant with the federal accessibility design standards on the ground that it sought a purely legal conclusion); *English v. Cromwell*, 117 F.R.D. 132, 135 (C.D. Ill. 1986) (sustaining an objection to a request that sought admission from the defendants that they were subject to particular statutes).

8. Bushmaster Firearms did not sell the Model XM-15 semi-automatic rifle bearing serial number L534858 to Camfour LLC under a Type 01 federal firearms dealer license.

OBJECTIONS:

a) To the extent this Request asks the plaintiffs to take a position as to the genuineness of the Invoice attached as Ex. A, it is improper. Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to verify the genuineness of a document that the party did not prepare or execute. *See Zoll v. Zoll*, 112 Conn. App. 290, 300 (2009) (affirming trial court's sustaining of an objection to a Request for Admission on grounds that it was "inappropriate to require the plaintiff to admit or deny the genuineness of documents prepared by a third party unrelated to the plaintiff"); *Marks v. Beard*, 1994 WL 282262, at *3 (Conn. Super. June 15, 1994) (McGrath, J.) (sustaining an objection to an RFA asking plaintiff to admit the genuineness of medical reports prepared by one of her treating physicians, finding that "the plaintiff is not competent to testify as to the genuineness of a document which the plaintiff did not execute"); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) (holding that a "party need not, in answering the request [for admission], rely on information provided by others if the party itself lacks firsthand knowledge of the information, had no control or input into the preparation of the document, and lacks sworn testimony or other reliable means for crediting the information provided by others"). Plaintiffs were not party to the drafting or execution of "Invoice number 840927." Therefore, the Request for Admission is improper.

b) Plaintiffs object to this Request to the extent that it calls for information that can only be ascertained by inquiring of Remington and relying on their representations as to what types of licenses were involved in the sale of the Bushmaster XM15-E2S. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our

jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

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c) In addition, plaintiffs object to this Request because it is unclear what is meant by "Bushmaster Firearms," and plaintiffs cannot resolve that ambiguity without inquiry of a Remington witness. Indeed, in a representation that appears to conflict with the admission requested here, Remington has stated that "Bushmaster Firearms International, LLC" "manufactured and shipped" the XM-15 rifle used in the December 14, 2012 mass shooting at Sandy Hook Elementary School. DN 162, Remington's Objections and Responses to Plaintiffs' First Requests for Production at Objection No. 1, p.2. Other Remington filings suggest that "Bushmaster Firearms" and "Bushmaster Firearms International, LLC" are separate entities (or perhaps separate entities depending on the time period). *See* DN 101, Remington's Notice of Removal, at pp.1-2 fn. 1 (stating that Bushmaster Firearms "does not exist," and that Bushmaster Firearms International, LLC also does not presently exist but is now "an unincorporated brand of Remington Arms Company, LLC"); DN 103, Application for Referral of Case to Complex Litigation Docket (CLD) at p.1, 2 (indicating that plaintiffs' suit was brought "against eleven defendants"; listing "Bushmaster Firearms," "Bushmaster Firearms International, LLC" and "Bushmaster Firearms, Inc." as separate defendants). Plaintiffs thus object to this Request because they cannot ascertain which Bushmaster entity the Request refers to without making inquiry of adverse witnesses.

9. Bushmaster Firearms was not a "seller" of the firearm bearing serial number L534858 as the term "seller" is defined in 15 U.S.C. § 7903(6).

OBJECTIONS:

a) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to admit a legal conclusion. This request asks plaintiffs to not only admit a legal conclusion (the meaning of the term "seller" in PLCAA), but to ratify Remington's belief that it can only be deemed a "seller" under 15 U.S.C. § 7903(6) if it satisfied that statutory criteria in the sale of the Bushmaster XM15-E2S. Plaintiffs believe this interpretation is fundamentally at odds with the language of 15 U.S.C. § 7903(6), which speaks to an entity's pattern of conduct and cannot be logically applied to one transaction. In any event, a Request for Admission is clearly not the proper vehicle to adjudicate this disagreement of statutory interpretation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts agree that Rule 36 does not permit a party to request the admission of a legal conclusion. *See Matysiak v. Spectrum Servs. Co.*, 2014 WL 3819206, at *4 (D. Conn. Aug. 4, 2014) ("a party may not seek an admission as to a pure conclusion of law"); *Disability Rights Council v. Wash. Metro. Area*, 234 F.R.D. 1, 3 (D.D.C. 2006) ("[a] party cannot demand that the other party admit the truth of a legal conclusion"; sustaining objection because defendant was "asking plaintiffs to state their understanding of federal law"); *Coach, Inc. v. Horizon Trading USA Inc.*, 908 F. Supp. 2d 426, 432 (S.D.N.Y. 2012) (declining to deem several unanswered Requests for Admission admitted, because they "ask defendants to admit legal conclusions"); *Lakehead Pipe Line Co. v. Am. Home Assur. Co.*, 177 F.R.D. 454, 458 (D. Minn. 1997) ("[A] request for admission which involves a pure matter of law, that is, requests for admissions of law which are related to the facts of the case, are considered to be inappropriate."). *See also Reichenbach v. City of Columbus*, 2006 WL 143552, at *1 (S.D. Ohio 2006) (sustaining an objection to a request for admission asking defendants to admit that the curb ramp at issue was not compliant with the federal accessibility

design standards on the ground that it sought a purely legal conclusion); *English v. Cromwell*, 117 F.R.D. 132, 135 (C.D. Ill. 1986) (sustaining an objection to a request that sought admission from the defendants that they were subject to particular statutes).

b) Plaintiffs object on the ground that a request for admission must pertain to "matters *relevant* to the subject matter of the pending action." Practice Book § 13-22(a) (emphasis supplied). Because the meaning of "seller" under 15 U.S.C. § 7903(6) pertains to an entity's pattern of conduct – not a particular transaction – the question of whether "Bushmaster Firearms" was a "seller" of "the firearm bearing serial number L534858" is not relevant to the pending action.

c) In addition, plaintiffs object to this Request because it is unclear what is meant by "Bushmaster Firearms," and plaintiffs cannot resolve that ambiguity without inquiry of a Remington witness. Indeed, in a representation that appears to conflict with the admission requested here, Remington has stated that "Bushmaster Firearms International, LLC" "manufactured and shipped" the XM-15 rifle used in the December 14, 2012 mass shooting at Sandy Hook Elementary School. DN 162, Remington's Objections and Responses to Plaintiffs' First Requests for Production at Objection No. 1, p.2. Other Remington filings suggest that "Bushmaster Firearms" and "Bushmaster Firearms International, LLC" are separate entities (or perhaps separate entities depending on the time period). *See* DN 101, Remington's Notice of Removal, at pp.1-2 fn. 1 (stating that Bushmaster Firearms "does not exist," and that Bushmaster Firearms International, LLC also does not presently exist but is now "an unincorporated brand of Remington Arms Company, LLC"); DN 103, Application for Referral of Case to Complex Litigation Docket (CLD) at p.1, 2 (indicating that plaintiffs' suit was brought "against eleven defendants"; listing "Bushmaster Firearms," "Bushmaster Firearms International, LLC" and "Bushmaster Firearms, Inc." as separate defendants). Plaintiffs thus object to this Request because they cannot ascertain which Bushmaster entity the Request refers to without making inquiry of adverse witnesses.

10. On February 10, 2012, there was no federal or state statute that prohibited the transfer of the Model XM-15 semi-automatic rifle bearing serial number L534858 by Bushmaster Firearms in Maine to Camfour LLC in Massachusetts.

OBJECTIONS:

a) Plaintiffs object to this Request to the extent that the lawfulness of the transfer of the Model XM-15 semi-automatic rifle bearing serial number L534858 depends in part upon the genuineness of "Invoice number 840927" and its content. A Request for Admission cannot be used to force a party to verify the genuineness of a document that the party did not prepare or execute. *See Zoll v. Zoll*, 112 Conn. App. 290, 300 (2009) (affirming trial court's sustaining of an objection to a Request for Admission on grounds that it was "inappropriate to require the plaintiff to admit or deny the genuineness of documents prepared by a third

party unrelated to the plaintiff"); *Marks v. Beard*, 1994 WL 282262, at *3 (Conn. Super. June 15, 1994) (McGrath, J.) (sustaining an objection to an RFA asking plaintiff to admit the genuineness of medical reports prepared by one of her treating physicians, finding that "the plaintiff is not competent to testify as to the genuineness of a document which the plaintiff did not execute"); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) (holding that a "party need not, in answering the request [for admission], rely on information provided by others if the party itself lacks firsthand knowledge of the information, had no control or input into the preparation of the document, and lacks sworn testimony or other reliable means for crediting the information provided by others"). Plaintiffs were not party to the drafting or execution of "Invoice number 840927." Therefore, the Request for Admission is improper.

b) Plaintiffs object to this Request to the extent that it calls for information that can only be ascertained by inquiring of Remington and Camfour and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts have long held that a party is not required to answer a request for admission that requires him or her to inquire of individuals with an adverse interest in the litigation. *See Al-Jundi v. Rockefeller*, 91 F.R.D. 590, 594 (W.D.N.Y. 1981) (court will "entertain good faith objections to specific admission requests that to obtain the requisite knowledge would require inquiry of persons having an interest in this litigation significantly adverse to the objector's own"); *Dulansky v. Iowa-Illinois Gas & Elec. Co.*, 92 F. Supp. 118, 123 (S.D. Iowa 1950) (holding that it would be improper "to require a respondent to ascertain from third persons, known to him and to the court to be hostile or interested in the outcome of the suit, facts upon which to predicate a[n admission]"); *Kendrick v. Sullivan*, 1992 WL 119125, at *4 (D.D.C. May 15, 1992) (same). The rationale for this rule is that admissions are tantamount to sworn testimony. Accordingly, to require a party to adopt the statements of a hostile witness would effectively

deprive him of the right of cross-examination at trial. *Al-Jundi*, 91 F.R.D. at 593-94; *Dulansky*, 92 F. Supp. at 123; *Kendrick*, 1992 WL 119125, at *4.

c) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to admit a legal conclusion. Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts agree that Rule 36 does not permit a party to request the admission of a legal conclusion. *See Matysiak v. Spectrum Servs. Co.*, 2014 WL 3819206, at *4 (D. Conn. Aug. 4, 2014) ("a party may not seek an admission as to a pure conclusion of law"); *Disability Rights Council v. Wash. Metro. Area*, 234 F.R.D. 1, 3 (D.D.C. 2006) ("[a] party cannot demand that the other party admit the truth of a legal conclusion"; sustaining objection because defendant was "asking plaintiffs to state their understanding of federal law"); *Coach, Inc. v. Horizon Trading USA Inc.*, 908 F. Supp. 2d 426, 432 (S.D.N.Y. 2012) (declining to deem several unanswered Requests for Admission admitted, because they "ask defendants to admit legal conclusions"); *Lakehead Pipe Line Co. v. Am. Home Assur. Co.*, 177 F.R.D. 454, 458 (D. Minn. 1997) ("[A] request for admission which involves a pure matter of law, that is, requests for admissions of law which are related to the facts of the case, are considered to be inappropriate."). *See also Reichenbach v. City of Columbus*, 2006 WL 143552, at *1 (S.D. Ohio 2006) (sustaining an objection to a request for admission asking defendants to admit that the curb ramp at issue was not compliant with the federal accessibility design standards on the ground that it sought a purely legal conclusion); *English v. Cromwell*, 117 F.R.D. 132, 135 (C.D. Ill. 1986) (sustaining an objection to a request that sought admission from the defendants that they were subject to particular statutes).

This Request asks plaintiffs to admit to a particular conclusion of law regarding the content of state and federal statutes. The fact that Remington tacks this conclusion onto certain facts does not place the request within the ambit of § 13-22. *See Disability Rights Council*, 234 F.R.D. at 3 ("[I]t would be inappropriate for a party to demand that the opposing party ratify legal conclusions that the

requesting party has simply attached to operative facts."). The Request for Admission is improper.

d) In addition, plaintiffs object to this Request because it is unclear what is meant by "Bushmaster Firearms," and plaintiffs cannot resolve that ambiguity without inquiry of a Remington witness. Indeed, in a representation that appears to conflict with the admission requested here, Remington has stated that "Bushmaster Firearms International, LLC" "manufactured and shipped" the XM-15 rifle used in the December 14, 2012 mass shooting at Sandy Hook Elementary School. DN 162, Remington's Objections and Responses to Plaintiffs' First Requests for Production at Objection No. 1, p.2. Other Remington filings suggest that "Bushmaster Firearms" and "Bushmaster Firearms International, LLC" are separate entities (or perhaps separate entities depending on the time period). *See* DN 101, Remington's Notice of Removal, at pp.1-2 fn. 1 (stating that Bushmaster Firearms "does not exist," and that Bushmaster Firearms International, LLC also does not presently exist but is now "an unincorporated brand of Remington Arms Company, LLC"); DN 103, Application for Referral of Case to Complex Litigation Docket (CLD) at p.1, 2 (indicating that plaintiffs' suit was brought "against eleven defendants"; listing "Bushmaster Firearms," "Bushmaster Firearms International, LLC" and "Bushmaster Firearms, Inc." as separate defendants). Plaintiffs thus object to this Request because they cannot ascertain which Bushmaster entity the Request refers to without making inquiry of adverse witnesses.

11. The transfer of the Model XM-15 semi-automatic rifle bearing serial number L534858 rifle by Bushmaster Firearms to Camfour LLC on February 10, 2012 was in compliance with applicable federal and state laws and regulations governing transfer of firearms by federal firearms licensees to other federal firearms licensees.

OBJECTIONS:

a) Plaintiffs object to this Request to the extent that the lawfulness of the transfer of the Model XM-15 semi-automatic rifle bearing serial number L534858 depends in part upon the genuineness of "Invoice number 840927" and its content. A Request for Admission cannot be used to force a party to verify the genuineness of a document that the party did not prepare or execute. *See Zoll v. Zoll*, 112 Conn. App. 290, 300 (2009) (affirming trial court's sustaining of an objection to a Request for Admission on grounds that it was "inappropriate to require the plaintiff to admit or deny the genuineness of documents prepared by a third party unrelated to the plaintiff"); *Marks v. Beard*, 1994 WL 282262, at *3 (Conn. Super. June 15, 1994) (McGrath, J.) (sustaining an objection to an RFA asking plaintiff to admit the genuineness of medical reports prepared by one of her treating physicians, finding that "the plaintiff is not competent to testify as to the genuineness of a document which the plaintiff did not execute"); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) (holding that a "party need not, in answering the request [for admission], rely on information provided by others if the party itself lacks firsthand knowledge of

the information, had no control or input into the preparation of the document, and lacks sworn testimony or other reliable means for crediting the information provided by others"). Plaintiffs were not party to the drafting or execution of "Invoice number 840927." Therefore, the Request for Admission is improper.

b) Plaintiffs object to this Request to the extent that it calls for information that can only be ascertained by inquiring of Remington and Camfour and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts have long held that a party is not required to answer a request for admission that requires him or her to inquire of individuals with an adverse interest in the litigation. *See Al-Jundi v. Rockefeller*, 91 F.R.D. 590, 594 (W.D.N.Y. 1981) (court will "entertain good faith objections to specific admission requests that to obtain the requisite knowledge would require inquiry of persons having an interest in this litigation significantly adverse to the objector's own"); *Dulansky v. Iowa-Illinois Gas & Elec. Co.*, 92 F. Supp. 118, 123 (S.D. Iowa 1950) (holding that it would be improper "to require a respondent to ascertain from third persons, known to him and to the court to be hostile or interested in the outcome of the suit, facts upon which to predicate a[n admission]"); *Kendrick v. Sullivan*, 1992 WL 119125, at *4 (D.D.C. May 15, 1992) (same). The rationale for this rule is that admissions are tantamount to sworn testimony. Accordingly, to require a party to adopt the statements of a hostile witness would effectively deprive him of the right of cross-examination at trial. *Al-Jundi*, 91 F.R.D. at 593-94; *Dulansky*, 92 F. Supp. at 123; *Kendrick*, 1992 WL 119125, at *4.

c) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to admit a legal conclusion. Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules.").

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This Request asks plaintiffs to admit to a particular conclusion of law regarding the content of state and federal statutes. The fact that Remington tacks this conclusion onto certain facts does not place the request within the ambit of § 13-22. *See Disability Rights Council*, 234 F.R.D. at 3 ("[I]t would be inappropriate for a party to demand that the opposing party ratify legal conclusions that the requesting party has simply attached to operative facts."). The Request for Admission is improper.

d) In addition, plaintiffs object to this Request because it is unclear what is meant by "Bushmaster Firearms," and plaintiffs cannot resolve that ambiguity without inquiry of a Remington witness. Indeed, in a representation that appears to conflict with the admission requested here, Remington has stated that "Bushmaster Firearms International, LLC" "manufactured and shipped" the XM-15 rifle used in the December 14, 2012 mass shooting at Sandy Hook

Elementary School. DN 162, Remington's Objections and Responses to Plaintiffs' First Requests for Production at Objection No. 1, p.2. Other Remington filings suggest that "Bushmaster Firearms" and "Bushmaster Firearms International, LLC" are separate entities (or perhaps separate entities depending on the time period). *See* DN 101, Remington's Notice of Removal, at pp.1-2 fn. 1 (stating that Bushmaster Firearms "does not exist," and that Bushmaster Firearms International, LLC also does not presently exist but is now "an unincorporated brand of Remington Arms Company, LLC"); DN 103, Application for Referral of Case to Complex Litigation Docket (CLD) at p.1, 2 (indicating that plaintiffs' suit was brought "against eleven defendants"; listing "Bushmaster Firearms," "Bushmaster Firearms International, LLC" and "Bushmaster Firearms, Inc." as separate defendants). Plaintiffs thus object to this Request because they cannot ascertain which Bushmaster entity the Request refers to without making inquiry of adverse witnesses.

12. The document attached as Exhibit B is a genuine copy of an ATF Form 4473 signed by Nancy J. Lanza on March 15, 2010.

ANSWER:

Admitted.

13. Nancy J. Lanza applied to purchase a Bushmaster Model XM-15 semi-automatic rifle bearing serial number L534858 from Riverview Sales on March 15, 2010.

ANSWER:

Admitted.

14. Riverview Sales transmitted identifying information regarding Nancy J. Lanza to NICS or the appropriate state agency on March 15, 2010.

OBJECTION:

a) Plaintiffs object to this Request to the extent that it calls for information that can only be ascertained by inquiring of Riverview Sales and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned

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15. Riverview Sales received from NICS or the appropriate state agency a "proceed" response on March 29, 2010 regarding Riverview Sales' transfer of the Bushmaster Model XM-15 semi-automatic rifle to Nancy J. Lanza.

OBJECTION:

a) Plaintiffs object to this Request to the extent that it calls for information that can only be ascertained by inquiring of Riverview Sales and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn.

Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

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16. Riverview Sales transferred Bushmaster Model XM-15 semi-automatic rifle to Nancy J. Lanza on March 29, 2010.

ANSWER:

Admitted.

17. On March 29, 2012, there were no federal or state statutes that prohibited the transfer of the Bushmaster Model XM-15 semi-automatic rifle by Riverview Sales to Nancy J. Lanza.

OBJECTIONS:

a) Plaintiffs object to this Request to the extent that it calls for information based on the conduct of Riverview Sales and the conduct and statements of Nancy J. Lanza; such information can only be ascertained by inquiring of Riverview Sales and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq*. *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned

closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts have long held that a party is not required to answer a request for admission that requires him or her to inquire of individuals with an adverse interest in the litigation. *See Al-Jundi v. Rockefeller*, 91 F.R.D. 590, 594 (W.D.N.Y. 1981) (court will "entertain good faith objections to specific admission requests that to obtain the requisite knowledge would require inquiry of persons having an interest in this litigation significantly adverse to the objector's own"); *Dulansky v. Iowa-Illinois Gas & Elec. Co.*, 92 F. Supp. 118, 123 (S.D. Iowa 1950) (holding that it would be improper "to require a respondent to ascertain from third persons, known to him and to the court to be hostile or interested in the outcome of the suit, facts upon which to predicate a[n admission]"); *Kendrick v. Sullivan*, 1992 WL 119125, at *4 (D.D.C. May 15, 1992) (same). The rationale for this rule is that admissions are tantamount to sworn testimony. Accordingly, to require a party to adopt the statements of a hostile witness would effectively deprive him of the right of cross-examination at trial. *Al-Jundi*, 91 F.R.D. at 593-94; *Dulansky*, 92 F. Supp. at 123; *Kendrick*, 1992 WL 119125, at *4.

b) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to admit a legal conclusion. Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

Federal courts agree that Rule 36 does not permit a party to request the admission of a legal conclusion. *See Matysiak v. Spectrum Servs. Co.*, 2014 WL 3819206, at *4 (D. Conn. Aug. 4, 2014) ("a party may not seek an admission as to a pure conclusion of law"); *Disability Rights Council v. Wash. Metro. Area*, 234 F.R.D. 1, 3 (D.D.C. 2006) ("[a] party cannot demand that the other party admit the truth of a legal conclusion"; sustaining objection because defendant was

"asking plaintiffs to state their understanding of federal law"); *Coach, Inc. v. Horizon Trading USA Inc.*, 908 F. Supp. 2d 426, 432 (S.D.N.Y. 2012) (declining to deem several unanswered Requests for Admission admitted, because they "ask defendants to admit legal conclusions"); *Lakehead Pipe Line Co. v. Am. Home Assur. Co.*, 177 F.R.D. 454, 458 (D. Minn. 1997) ("[A] request for admission which involves a pure matter of law, that is, requests for admissions of law which are related to the facts of the case, are considered to be inappropriate."). *See also Reichenbach v. City of Columbus*, 2006 WL 143552, at *1 (S.D. Ohio 2006) (sustaining an objection to a request for admission asking defendants to admit that the curb ramp at issue was not compliant with the federal accessibility design standards on the ground that it sought a purely legal conclusion); *English v. Cromwell*, 117 F.R.D. 132, 135 (C.D. Ill. 1986) (sustaining an objection to a request that sought admission from the defendants that they were subject to particular statutes).

This Request asks plaintiffs to admit to a particular conclusion of law regarding the content of state and federal statutes. The fact that Remington tacks this conclusion onto certain facts does not place the request within the ambit of § 13-22. *See Disability Rights Council*, 234 F.R.D. at 3 ("[I]t would be inappropriate for a party to demand that the opposing party ratify legal conclusions that the requesting party has simply attached to operative facts."). The Request for Admission is improper.

18. The transfer of the Bushmaster Model XM-15 semi-automatic rifle by Riverview Sales to Nancy J. Lanza was in compliance with applicable federal and state laws and regulations governing transfer of firearms by federal firearms licensees to unlicensed persons.

OBJECTIONS:

a) Plaintiffs object to this Request to the extent that it calls for information based on the conduct of Riverview Sales and the conduct and statements of Nancy J. Lanza; such information can only be ascertained by inquiring of Riverview Sales and relying on their representations. A Request for Admission cannot be used to force a party to admit a fact that can only be verified by inquiring of individuals adverse to the party's interest in the litigation.

Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn.

Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

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b) Plaintiffs object to this Request because a Request for Admission cannot be used to force a party to admit a legal conclusion. Practice Book § 13-22 is modeled upon Rule 36 of the Federal Rules of Civil Procedure. *Vitolo v. Enterprise Leasing Corp.*, 1996 WL 497404, at *2 (Conn. Super. Aug. 21, 1996) (Corradino, J.) ("Our rule is modeled upon Rule 36 of the Federal Civil Rules."). Accordingly, Connecticut judges look to federal decisions on the meaning of Rule 36 for guidance in interpreting Practice Book § 13-22 *et seq.* *See Joseph McMahon Corp. v. Pacheco*, 2011 WL 2417211, at *2 (Conn. Super. May 13, 2011) (Levin, J.) ("Because Practice Book § 13–22 was patterned closely after Rule 36 of the Federal Rules of Civil Procedure, and our jurisprudence governing the form of requests for admissions is relatively undeveloped, we look to federal case law for guidance in construing Practice Book § 13–22."); *Prentice v. Dalco Elec., Inc.*, 2004 WL 376977, at *1 (Conn. Super. Feb. 4, 2004) (Frazzini, J.) ("[T]he Connecticut rule is modeled on Rule 36 of the Federal Rules of Civil Procedure, and this court can thus look for guidance to federal authorities addressing the issue.").

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Assur. Co., 177 F.R.D. 454, 458 (D. Minn. 1997) ("[A] request for admission which involves a pure matter of law, that is, requests for admissions of law which are related to the facts of the case, are considered to be inappropriate."). _See also Reichenbach v. City of Columbus_, 2006 WL 143552, at *1 (S.D. Ohio 2006) (sustaining an objection to a request for admission asking defendants to admit that the curb ramp at issue was not compliant with the federal accessibility design standards on the ground that it sought a purely legal conclusion); _English v. Cromwell_, 117 F.R.D. 132, 135 (C.D. Ill. 1986) (sustaining an objection to a request that sought admission from the defendants that they were subject to particular statutes).

This Request asks plaintiffs to admit to a particular conclusion of law regarding the content of state and federal statutes. The fact that Remington tacks this conclusion onto certain facts does not place the request within the ambit of § 13-22. _See Disability Rights Council_, 234 F.R.D. at 3 ("[I]t would be inappropriate for a party to demand that the opposing party ratify legal conclusions that the requesting party has simply attached to operative facts."). The Request for Admission is improper.

THE PLAINTIFFS,

By **/s/**

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CERTIFICATION

This is to certify that a copy of the foregoing has been mailed, postage prepaid, and emailed this day to all counsel of record, to wit:

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Bushmaster Firearms, a/k/a;
Bushmaster Firearms, Inc., a/k/a;
Bushmaster Holdings, Inc., a/k/a
Remington Arms Company, LLC, a/k/a;
Remington Outdoor Company, Inc., a/k/a

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